

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

ALEK SCHOTT,

Plaintiff,

v.

JOEL BABB, in his individual and official
capacity; MARTIN A. MOLINA III, in his
individual and official capacity; JAVIER
SALAZAR, in his individual and official
capacity; and BEXAR COUNTY, TEXAS,

Defendants.

5:23-cv-00706-OLG

**DEFENDANT DEPUTY JOEL BABB’S ANSWER TO
PLAINTIFF’S ORIGINAL COMPLAINT**

COMES NOW Defendant Deputy Joel Babb (“Deputy Babb”) and files this answer to Plaintiff’s original complaint (docket no. 1), and in support thereof respectfully shows as follows:

INTRODUCTION

1. Deputy Babb admits that Plaintiff filed this lawsuit, but denies any other factual allegation contained in paragraph 1 of the original complaint.

2. Deputy Babb admits that he pulled Plaintiff over, but denies any other factual allegation contained in paragraph 2 of the original complaint.

3. Deputy Babb denies the allegations in paragraph 3 of the original complaint.

4. Deputy Babb admits that the search found no evidence of contraband, but denies any other factual allegation in paragraph 4 of the original complaint.

5. Deputy Babb denies the allegations contained in paragraph 5 of the original complaint.

6. Deputy Babb admits that Plaintiff brought a lawsuit but denies the remainder of allegations in paragraph 6 of the original complaint.

JURISDICTION AND VENUE

7. Deputy Babb admits that Plaintiff brought a lawsuit but denies the remainder of allegations in paragraph 7 of the original complaint.

8. Deputy Babb admits that the Court has jurisdiction.

9. Deputy Babb admits that venue is proper.

THE PARTIES

10. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiff's residency contained in Paragraph 10 of the original complaint. Therefore, the allegations are denied. Deputy Babb denies all other allegations in paragraph 10 of the original complaint.

11. Deputy Babb admits that he is a BCSO deputy. Deputy Babb denies all other allegations in paragraph 11 of the original complaint.

12. Deputy Babb admits that Deputy Molina conducted a "dog sniff and car search." Deputy Babb denies all other allegations contained in paragraph 12 of the original complaint.

13. Deputy Babb admits that Sheriff Javier Salazar is the Sheriff of Bexar County. Deputy Babb denies the remainder of the allegations contained in Paragraph 13 of the original complaint.

14. Deputy Babb admits that Bexar County is a county in Texas. Deputy Babb denies the remainder of the allegations contained in paragraph 14 of the original complaint.

15. Deputy Babb denies the allegations contained in paragraph 15 of the original complaint.

16. Deputy Babb denies the allegations contained in paragraph 16 of the original complaint.

FACTUAL ALLEGATIONS

17. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the original complaint. Therefore, the allegations are denied.

18. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the original complaint. Therefore, the allegations are denied.

19. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the original complaint. Therefore, the allegations are denied.

20. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the original complaint. Therefore, the allegations are denied.

21. Deputy Babb denies the allegations contained in paragraph 21 of the original complaint.

22. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the original complaint. Therefore, the allegations are denied.

23. Deputy Babb admits that Plaintiff was traveling north on I-35. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the remainder of the

allegations contained in paragraph 23 of the original complaint. Therefore, the allegations are denied.

24. Deputy Babb admits that Plaintiff was traveling north on I-35. Deputy Babb denies the remainder of the allegations contained in paragraph 24 of the original complaint.

25. Deputy Babb admits that Plaintiff passed him, and that Deputy Babb was parked in the grass on the side of the highway. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 25 of the original complaint. Therefore, the allegations are denied.

26. Deputy Babb admits that Plaintiff passed him. Deputy Babb denies the remainder of the allegations contained in paragraph 26 of the original complaint.

27. Deputy Babb denies the allegations contained in paragraph 27 of the original complaint.

28. Deputy Babb denies the allegations contained in paragraph 28 of the original complaint.

29. Deputy Babb denies the allegations contained in paragraph 29 of the original complaint.

30. Deputy Babb denies the allegations contained in paragraph 30 of the original complaint.

31. Deputy Babb denies the allegations contained in paragraph 31 of the original complaint.

32. Deputy Babb denies the allegations contained in paragraph 32 of the original complaint.

33. Deputy Babb denies the allegations contained in paragraph 33 of the original complaint.

34. Deputy Babb admits that he pulled Plaintiff over. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the original complaint. Therefore, the allegations are denied.

35. Deputy Babb admits that he stopped his patrol car behind Plaintiff's truck, got out, and approached Plaintiff. Deputy Babb denies the allegations contained in paragraph 35 of the original complaint.

36. Deputy Babb denies the allegations contained in paragraph 36 of the original complaint.

37. Deputy Babb denies the allegations contained in paragraph 37 of the original complaint.

38. Deputy Babb denies the allegations contained in paragraph 38 of the original complaint.

39. Deputy Babb admits the allegations contained in paragraph 39 of the original complaint.

40. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of the Complaint. Therefore, the allegations are denied.

41. Deputy Babb denies the allegations contained in paragraph 41 of the original complaint.

42. Deputy Babb denies the allegations contained in paragraph 42 of the original complaint.

43. Deputy Babb denies the allegations contained in paragraph 43 of the original complaint.

44. Deputy Babb denies the allegations contained in paragraph 44 of the original complaint.

45. Deputy Babb denies the allegations contained in paragraph 45 of the original complaint.

46. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the original complaint. Therefore, the allegations are denied.

47. Deputy Babb denies the allegations contained in paragraph 47 of the original complaint.

48. Deputy Babb denies the allegations contained in paragraph 48 of the original complaint.

49. Deputy Babb denies the allegations contained in paragraph 49 of the original complaint.

50. Deputy Babb denies the allegations contained in paragraph 50 of the original complaint.

51. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the original complaint. Therefore, the allegations are denied.

52. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the original complaint. Therefore, the allegations are denied.

53. Deputy Babb denies the allegations contained in paragraph 53 of the original complaint.

54. Deputy Babb denies the allegations contained in paragraph 54 of the original complaint.

55. Deputy Babb denies the allegations contained in paragraph 55 of the original complaint.

56. Deputy Babb denies the allegations contained in paragraph 56 of the original complaint.

57. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the original complaint. Therefore, the allegations are denied.

58. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the original complaint. Therefore, the allegations are denied.

59. Deputy Babb denies the allegations contained in paragraph 59 of the original complaint.

60. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the original complaint. Therefore, the allegations are denied.

61. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the original complaint. Therefore, the allegations are denied.

62. Deputy Babb denies the allegations contained in paragraph 62 of the original complaint.

63. Deputy Babb denies the allegations contained in paragraph 63 of the original complaint.

64. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of the original complaint. Therefore, the allegations are denied.

65. Deputy Babb denies the allegations contained in paragraph 65 of the original complaint.

66. Deputy Babb denies the allegations contained in paragraph 66 of the original complaint.

67. Deputy Babb denies the allegations contained in paragraph 67 of the original complaint.

68. Deputy Babb denies the allegations contained in paragraph 68 of the original complaint.

69. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the original complaint. Therefore, the allegations are denied.

70. Deputy Babb denies the allegations contained in paragraph 70 of the original complaint.

71. Deputy Babb denies the allegations contained in paragraph 71 of the original complaint.

72. Deputy Babb denies the allegations contained in paragraph 72 of the original complaint.

73. Deputy Babb denies the allegations contained in paragraph 73 of the original complaint.

74. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 of the original complaint. Therefore, the allegations are denied.

75. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the original complaint. Therefore, the allegations are denied.

76. Deputy Babb denies the allegations contained in paragraph 76 of the original complaint.

77. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the original complaint. Therefore, the allegations are denied.

78. Deputy Babb denies the allegations contained in paragraph 78 of the original complaint.

79. Deputy Babb denies the allegations contained in paragraph 79 of the original complaint.

80. Deputy Babb admits the allegations contained in paragraph 80 of the original complaint.

81. Deputy Babb denies the allegations contained in paragraph 81 of the original complaint.

82. Deputy Babb denies the allegations contained in paragraph 82 of the original complaint.

83. Deputy Babb denies the allegations contained in paragraph 83 of the original complaint.

84. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of the original complaint. Therefore, the allegations are denied.

85. Deputy Babb denies the allegations contained in paragraph 85 of the original complaint.

86. Deputy Babb denies the allegations contained in paragraph 86 of the original complaint.

87. Deputy Babb denies the allegations contained in paragraph 87 of the original complaint.

88. Deputy Babb admits that the deputies did not find drug or evidence of another crime. Deputy Babb denies the remainder of the allegations contained in paragraph 88 of the original complaint.

89. Deputy Babb denies the allegations contained in paragraph 89 of the original complaint.

90. Deputy Babb denies the allegations contained in paragraph 90 of the original complaint.

91. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of the original complaint. Therefore, the allegations are denied.

92. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of the original complaint. Therefore, the allegations are denied.

93. Deputy Babb denies the allegations contained in paragraph 93 of the original complaint.

94. Deputy Babb denies the allegations contained in paragraph 94 of the original complaint.

95. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of the original complaint. Therefore, the allegations are denied.

96. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of the original complaint. Therefore, the allegations are denied.

97. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of the original complaint. Therefore, the allegations are denied.

98. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 98 of the original complaint. Therefore, the allegations are denied.

99. Deputy Babb denies the allegations contained in paragraph 99 of the original complaint.

100. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 100 of the original complaint. Therefore, the allegations are denied.

101. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of the original complaint. Therefore, the allegations are denied.

102. Deputy Babb denies the allegations contained in paragraph 102 of the original complaint.

103. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of the original complaint. Therefore, the allegations are denied.

104. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of the original complaint. Therefore, the allegations are denied.

105. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 105 of the original complaint. Therefore, the allegations are denied.

106. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 106 of the original complaint. Therefore, the allegations are denied.

107. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of the original complaint. Therefore, the allegations are denied.

108. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of the original complaint. Therefore, the allegations are denied.

109. Deputy Babb denies the allegations contained in paragraph 109 of the original complaint.

110. Deputy Babb denies the allegations contained in paragraph 110 of the original complaint.

111. Deputy Babb denies the allegations contained in paragraph 111 of the original complaint.

112. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 112 of the original complaint. Therefore, the allegations are denied.

113. Deputy Babb denies the allegations contained in paragraph 113 of the original complaint.

114. Deputy Babb denies the allegations contained in paragraph 114 of the original complaint.

115. Deputy Babb denies the allegations contained in paragraph 115 of the original complaint.

116. Deputy Babb denies the allegations contained in paragraph 116 of the original complaint.

117. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of the original complaint. Therefore, the allegations are denied.

118. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of the original complaint. Therefore, the allegations are denied.

119. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 of the original complaint. Therefore, the allegations are denied.

120. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 of the original complaint. Therefore, the allegations are denied.

121. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 of the original complaint. Therefore, the allegations are denied.

122. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 122 of the original complaint. Therefore, the allegations are denied.

INJURY TO PLAINTIFF

123. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 of the original complaint. Therefore, the allegations are denied.

124. Deputy Babb denies the allegations contained in paragraph 124 of the original complaint.

125. Deputy Babb denies the allegations contained in paragraph 125 of the original complaint.

126. Deputy Babb denies the allegations contained in paragraph 126 of the original complaint.

127. Deputy Babb denies the allegations contained in paragraph 127 of the original complaint.

128. Deputy Babb denies the allegations contained in paragraph 128 of the original complaint.

129. Deputy Babb denies the allegations contained in paragraph 129 of the original complaint.

130. Deputy Babb denies the allegations contained in paragraph 130 of the original complaint.

131. Deputy Babb denies the allegations contained in paragraph 131 of the original complaint.

132. Deputy Babb denies that Plaintiff's constitutional rights were violated. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 132 of the original complaint. Therefore, the allegations are denied.

133. Deputy Babb denies that Plaintiff's constitutional rights were violated. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 133 of the original complaint. Therefore, the allegations are denied.

134. Deputy Babb denies the allegations contained in paragraph 134 of the original complaint.

135. Deputy Babb admits that Bexar County paid for the damage to Plaintiff's truck. Deputy Babb is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 135 of the original complaint. Therefore, the allegations are denied.

CAUSES OF ACTION

Claim I

136. Deputy Babb incorporates and realleges his answers above.

137. Plaintiff's allegation in paragraph 137 of the original complaint is a legal conclusion to which an answer is not necessary.

138. Deputy Babb denies the allegations contained in paragraph 138 of the original complaint.

139. Deputy Babb denies the allegations contained in paragraph 139 of the original complaint.

140. Plaintiff's allegation in paragraph 140 of the original complaint contains a legal conclusion to which an answer is not necessary. Deputy Babb denies the remainder of the allegations.

141. Deputy Babb denies the allegations contained in paragraph 141 of the original complaint.

142. Plaintiff's allegation in paragraph 142 of the original complaint contains a legal conclusion to which an answer is not necessary. Deputy Babb denies the remainder of the allegations.

143. Deputy Babb denies the allegations contained in paragraph 143 of the original complaint.

144. Deputy Babb denies the allegations contained in paragraph 144 of the original complaint.

145. Deputy Babb denies the allegations contained in paragraph 145 of the original complaint.

146. Deputy Babb denies the allegations contained in paragraph 146 of the original complaint.

147. Plaintiff's allegation in paragraph 147 of the original complaint contains a legal conclusion to which an answer is not necessary. Deputy Babb denies any remaining allegations.

148. Deputy Babb denies that Plaintiff is entitled to damages or that his rights were violated.

Claim II

149. Deputy Babb incorporates and realleges his answers above.

150. Plaintiff's allegation in paragraph 150 of the original complaint contains a legal conclusion to which an answer is not necessary.

151. Plaintiff's allegation in paragraph 151 of the original complaint contains a legal conclusion to which an answer is not necessary.

152. Deputy Babb denies the allegations contained in paragraph 152 of the original complaint.

153. Deputy Babb denies the allegations contained in paragraph 153 of the original complaint.

154. Deputy Babb denies the allegations contained in paragraph 154 of the original complaint.

155. Deputy Babb denies the allegations contained in paragraph 155 of the original complaint.

156. Deputy Babb denies the allegations contained in paragraph 156 of the original complaint.

157. Deputy Babb denies the allegations contained in paragraph 157 of the original complaint.

158. Deputy Babb denies the allegations contained in paragraph 158 of the original complaint.

159. Deputy Babb denies the allegations contained in paragraph 159 of the original complaint.

160. Deputy Babb denies the allegations contained in paragraph 160 of the original complaint.

161. Deputy Babb denies the allegations contained in paragraph 161 of the original complaint.

162. Deputy Babb denies the allegations contained in paragraph 162 of the original complaint.

163. Deputy Babb denies the allegations contained in paragraph 163 of the original complaint.

164. Deputy Babb denies the allegations contained in paragraph 164 of the original complaint.

165. Deputy Babb denies the allegations contained in paragraph 165 of the original complaint.

166. Deputy Babb denies the allegations contained in paragraph 166 of the original complaint.

167. Deputy Babb denies the allegations contained in paragraph 167 of the original complaint.

168. Plaintiff's allegation in paragraph 168 of the original complaint contains a legal conclusion to which an answer is not necessary.

169. Plaintiff's allegation in paragraph 169 of the original complaint contains a legal conclusion to which an answer is not necessary. Deputy Babb denies any remaining allegations.

170. Deputy Babb denies that Plaintiff is entitled to damages or that his rights were violated.

Claim III

171. Deputy Babb incorporates and realleges his answers above.

172. Plaintiff's allegation in paragraph 172 of the original complaint contains a legal conclusion to which an answer is not necessary.

173. Deputy Babb denies the allegations contained in paragraph 173 of the original complaint.

174. Deputy Babb denies the allegations contained in paragraph 174 of the original complaint.

175. Deputy Babb denies the allegations contained in paragraph 175 of the original complaint.

176. Deputy Babb denies the allegations contained in paragraph 176 of the original complaint.

177. Deputy Babb denies the allegations contained in paragraph 177 of the original complaint.

178. Plaintiff's allegation in paragraph 178 of the original complaint contains a legal conclusion to which an answer is not necessary.

179. Plaintiff's allegation in paragraph 179 of the original complaint contains a legal conclusion to which an answer is not necessary.

180. Deputy Babb denies that Plaintiff is entitled to damages or that his rights were violated.

Claim IV

181. Deputy Babb incorporates and realleges his answers above.

182. Deputy Babb denies the allegations contained in paragraph 182 of the original complaint.

183. Deputy Babb denies the allegations contained in paragraph 183 of the original complaint.

184. Deputy Babb denies the allegations contained in paragraph 184 of the original complaint.

185. Deputy Babb denies the allegations contained in paragraph 185 of the original complaint.

186. Deputy Babb denies that Plaintiff is entitled to damages or that his rights were violated.

PRAYER FOR RELIEF

187. Deputy Babb denies that Plaintiff is entitled to damages, injunctive relief, a declaratory judgment, or any relief or compensation whatsoever, or that his rights were violated.

188. Deputy Babb admits that Plaintiff does not seek relief related to or arising out of any alleged property damage to his truck.

189. Deputy Babb further pleads any and all limitations and caps on damages that may apply to this cause of action.

JURY DEMAND

190. Deputy Babb hereby makes a demand for a jury trial.

AFFIRMATIVE DEFENSES

191. Deputy Babb asserts the doctrine of qualified immunity from all claims.

192. The original complaint fails to state a claim upon which relief can be granted.

193. Deputy Babb reserves the right to add and rely upon such other further defenses as may become apparent during discovery in this action, and he reserves his right to amend his answer and other pleadings to assert such additional defenses.

WHEREFORE, Defendant Deputy Babb demands judgment dismissing the above-entitled and numbered cause, along with costs and disbursements, and further awarding all such other and further relief as the Court shall deem just, equitable and proper.

Respectfully Submitted,
JOE GONZALES
Bexar County Criminal District Attorney

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CERTIFICATE OF SERVICE

I hereby certify that, on the 6th day of July, 2023, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which provided electronic service upon all parties.

/s/ Robert Piatt
ROBERT W. PIATT III